

MINUTES

STATE OF WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

May 24, 2002 – Special Meeting

Hampton Inn
Fox Hall Meeting Room
3985 Bennett Drive
Bellingham, Washington 98225

ITEM 1: CALL TO ORDER

CHAIR LUCE: Good Afternoon. I am calling this meeting to order. This is a Special Meeting of the Energy Facility Site Evaluation Council, held in Bellingham, Washington, on May 24, 2002. My name is Jim Luce. I am the Chair of the Council.

Today the Council has a single item on the meeting agenda - to consider the Sumas Energy 2 Application for Site Certification No. 99-01 for the proposed Sumas Energy 2 Generation Facility, and to vote on an order and recommendation to the Governor of Washington State.

I would like to remind all of you that today's meeting is the same as an administrative court procedure. Please be respectful of the members of the Council and of the other people who are here today so that everyone can hear what is being said.

Mr. Fiksdal, Would you please call the roll.

ITEM 2: ROLL CALL

EFSEC Sumas Council Members

Chair

Department of Agriculture

Community, Trade and Economic Development

Department of Ecology

Department of Fish & Wildlife

Department of Health

Military Department

Department of Natural Resources

Department of Transportation

Utilities and Transportation Commission

City of Sumas

Whatcom County

Jim Luce

Linda Crerar

Heather Ballash

Charles Carelli

Jenene Fenton

Ellen Haars

Maillian Uphaus

Tony Ifie

Gary Ray

Dennis Moss

Gerald Richmond

Dan McShane

EFSEC Staff and Counsel

Allen Fiksdal

Irina Makarow

Robert Fallis, AAG, EFSEC

Nan Thomas, ALJ, Sumas

ALLEN FIKSDAL: All present Mr. Chairman, there is a quorum.

ITEM 3: SUMAS 2 GENERATION FACILITY, APPLICATION NO. 99-01

<i>Consideration of Second Revised Application for Site Certification Agreement, No 99-01, Order and Recommendation to the Governor</i>	Jim Luce, Chair
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CHAIR LUCE: Thank you Mr. Fiksdal.

In addition to the Council members, I would like to acknowledge the presence of Robert Fallis, Assistant Attorney General for EFSEC, and Nan Thomas, Administrative Law Judge for the Sumas Energy 2 proceeding.

I want to briefly describe the events leading to today's Special Council meeting on the application by Sumas Energy 2, Inc. (SE2 or the applicant) for certification of the proposed Sumas 2 Generation Facility in the City of Sumas, Washington, for the construction and operation of a 660 MW combined cycle gas turbine and associated electric transmission line and natural gas pipeline.

The Council has considered proposals submitted by SE2 on two occasions. The proposals are very different. I will briefly review the history of SE2's applications to the Council.

SE2 first submitted its application to EFSEC in January 1999. SE2 requested expedited processing of this first application. SE2 subsequently withdrew its request for expedited processing and submitted a revised proposal in January of 2000. After lengthy Council proceedings, the Council voted in February of 2001 to recommend denial of the project. After considering EFSEC's order recommending denial, the applicant requested permission to submit a Second Revised Application proposing project changes for EFSEC's consideration.

The Council granted SE2's request, received the Second Revised Application in June 2001, and initiated the proceedings, which culminate in today's special meeting and our recommendation to Governor Locke. Council members have spent many days considering and discussing the evidence before us in this proceeding, the final environmental impact statement issued in February 2001, and the final supplemental environmental impact statement that was issued last week.

Before continuing, "thank you's" are in order. The Council has been aided by the presentations of interveners, counsel for interveners and their witnesses. The testimony has helped focus the issues and the deliberations, which have led us to today's meeting. Council members have worked hard, and listened patiently and objectively to the evidence. Our judge, Nan Thomas, deserves praise for her hard work, good humor and dedication. And our attorney, Mr. Robert Fallis, has provided outstanding counsel on legal issues.

Finally, a special thanks is in order for the public who on numerous occasions took time away from their families and occupations to come to the public meetings and hearings to present their

opinions and testimony. You have been courteous, well informed, dedicated and persistent. Both Washingtonians and our Canadian neighbors can be proud to live in countries where our views can be freely, fully and fairly expressed.

Before summarizing the document the Council will vote on today, I want to comment briefly on the Council's legislative mandate. Our statutory directive is to provide an abundant power supply at a reasonable cost while protecting the environment and the public interest. These are responsibilities which we take very seriously. Events in the highly turbulent energy markets over the past year have driven home the challenges we face in achieving this balance.

I will now offer some observations regarding the Council's Order and Recommendation to Governor Locke. I will then ask for a motion to adopt the order, which if adopted by the Council, will be called order Number 768 and that is how I will refer to it for the rest of my remarks. After Council discussion, if any, we will take a roll call vote. If a majority votes to adopt the order, any member wishing to offer a dissenting or concurring opinion will be given the opportunity to do so. After the vote, the meeting will adjourn.

If the order is adopted, there will be a ten-day period after it has been officially served for any party to file a petition for reconsideration. The Council must dispose of any such petition within 20 days.

After the meeting, Mr. Fiksdal, Council Manager, and I will answer questions about the EFSEC process and very briefly about the order. We will not discuss the order in detail. We have copies of the Executive Summary, which summarizes the Council's recommendation. That will be available on a first come, first serve basis. Please take only one copy per person. The entire order will be available on our web site later this evening. I would request when we have our question period you refrain from questions about how to interpret the order. The order is the result of a deliberative process, and it "speaks for itself". Any concurring or dissenting opinion will speak for the individuals who publish them. I believe the order is written clearly enough to answer most of your questions. If you have specific questions about where to find discussion of particular items of interest in the Order, EFSEC staff can help you find those.

The Sumas 2 Generation Facility proposal before us today is substantially different from the project we recommended denial of in February 2001. This is so because of the comment you provided and because the project developer listened to and responded to your concerns. The process has worked, and worked well.

This is a new year and the revised SE2 project is a new project, which provides a new standard of protection for the environment and the public interest

Consider, if you will, how substantially this project has changed in several key areas identified by interveners, their witnesses, and the public:

- The new SE2 application totally eliminates diesel fuel backup. The new project is a stand-alone natural gas combined cycle gas turbine, which simply won't run if natural gas isn't available. And it is uncontroverted that of all thermal plant technologies, the combined cycle gas turbine is the cleanest way to produce thermal energy.

- Elimination of diesel backup means less impact on air quality and particularly that short term emissions of particulate matter (PM10) are substantially reduced. It also means elimination of the possibility of fire from oil storage, fuel oil transportation over two lane County roads during difficult weather conditions, and the possibility of a diesel spill with significant impacts to water quality, wetlands, and fish and wildlife.
- The new SE2 application substantially improved the wetlands mitigation plan.
- The new SE2 application offers to offset 100 percent of nitrogen oxides (NOx) and particulate matter (PM10) emissions whereas the prior application did not.
- The new SE2 application provides from 5 to 9 million dollars for “greenhouse gas” mitigation over 5 years. This is unprecedented in the State of Washington. The prior application offered far less.
- Finally, the new SE2 proposal mitigates impacts to water levels in private wells in both the United States and Canada, and guarantees to leave those well owners with water quantity unaffected by SE2 construction and operation. The prior application offered far less.

In these and other ways, the SE2 project before us today is in fact a new project in a new year offering a new standard of excellence for protection of the environment and the public interest.

Noticeable improvements in project design have also been made with respect to flood modeling, noise mitigation, site restoration, and conditions that assure Washington residents will benefit from power sales.

Council Order Number 768 determines, upon careful consideration of the state’s need for energy, at a reasonable cost and the need to minimize environmental impacts, that the appropriate balance is struck between the need to provide abundant power at a reasonable cost and the requirement to protect the environment and the public interest.

I will now read to you the Synopsis of Council Order No. 768, Findings of Fact, Conclusions of Law, and Order Recommending Approval of Site Certification On Condition:

The Energy Facility Site Evaluation Council has reviewed Sumas Energy 2 Inc.’s Second Revised Application for site certification, conducted public and adjudicative hearings, and by this order recommends approval of the Application to the Governor of the State of Washington, subject to conditions. The applicant has significantly revised its proposed project to respond to the concerns of EFSEC, parties to the adjudicative process, and the public. It has offered improvements that would result in an energy benefit for the region and that would reduce negative impacts on its neighbors and on the environment. It has offered to provide offsets for much of its air pollution and some of its greenhouse gas emissions, and has offered mitigation of impacts of concern as expressed by the Council in its prior Order. In addition, the Council recommends some additional mitigation of those impacts not adequately addressed by the Second Revised Application.

For all the reasons explained in Council Order Number 768, Findings of Fact, Conclusions of Law, and Order Recommending Approval of Site Certification, I will now entertain a motion from a Council member to adopt what is designated as Council Order Number 768 Findings of Fact, Conclusions of Law, and Order Recommending Approval of Site Certification On Condition. Do I have such a motion?

ELLEN HAARS: I move we adopt Order 768.

CHAIR LUCE: Thank you. And do I have a second to the motion?

HEATHER BALLASH: I second.

CHAIR LUCE: Thank you. A motion has been made and seconded to adopt Council Order Number 768, Findings of Fact, Conclusions of Law, and Order Recommending Approval of Site Certification On Condition. Mr. Fiksdal, please call the roll:

EFSEC Sumas Council Members

Chair	Jim Luce	Aye
Department of Agriculture	Linda Crerar	Aye
Community, Trade and Economic Development	Heather Ballash	Aye
Department of Ecology	Charles Carelli	Aye, will sign concurring opinion
Department of Fish & Wildlife	Jenene Fenton	Aye
Department of Health	Ellen Haars	Aye
Military Department	Maillian Uphaus	Aye
Department of Natural Resources	Tony Ifie	Aye
Department of Transportation	Gary Ray	Aye
Utilities and Transportation Commission	Dennis Moss	Aye
City of Sumas	Gerald Richmond	Aye, will sign concurring opinion
Whatcom County	Dan McShane	Aye, will sign concurring opinion

CHAIR LUCE: Thank you. The vote is unanimous with three concurring opinions. The motion is adopted and Council Order No. 768 is adopted by the Council. The meeting is adjourned.

ITEM 4: ADJOURN

The meeting was adjourned at 2:25 p.m.